

**ASSEMBLY BILL**

**No. 3041**

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**Introduced by Committee on Public Employees, Retirement and  
Social Security (Hernandez (Chair), Mullin, Soto, and Torrico)**

February 25, 2008

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An act to amend Section 2610 of the Family Code, to amend Sections 20037.6, 20037.7, 20037.8, 20037.9, 20037.10, 20037.11, 20037.12, 20305, 20475, 20479, 20967, 21252, 21753, 22126, 22839, 22960.15, 75006, 75028.5, 75507, and 75552 of, and to add Sections 21310.5, 75080.5, and 75580.5 to, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 3041, as introduced, Committee on Public Employees, Retirement and Social Security. Public Employees' Retirement Law.

(1) The Public Employees' Retirement Law provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. Existing law defines final compensation variously for different member classifications and bargaining units and, in this regard, defines final compensation for a state member for the purpose of calculating retirement benefits as the highest annual average compensation earnable by the member during a designated 12-month period. Existing law provides that final compensation for a person who becomes a state member, as specified, on or after a certain date, and who is represented by one of specified bargaining units, means the highest annual average compensation earnable by the member during a designated 36-month period.

This bill would further specify that final compensation, for purposes of those provisions, refers to a person who is employed by the state for

the first time, with respect to bargaining units 1, 2, 3, 4, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21.

(2) Existing law provides that an employee serving on a less than full-time basis is excluded from the Public Employees' Retirement System unless that person comes within specified exceptions. One exception applies if the person's employment is on a seasonal, limited-term, on-call, emergency, intermittent, substitute, or other irregular basis, as specified, and the person works more than 125 days, or 1,000 hours within the fiscal year, as specified.

This bill would instead provide that an employee serving on a basis of less than full-time for 6 months is excluded from the system unless that person comes within specified exceptions. The bill would also revise the exception described above to apply if the person completes 125 days or 1,000 hours, as specified.

(3) The Public Employees' Retirement Law authorizes a contracting agency to amend its contract or previous amendments to its contract, without election among its employees, to reduce benefits, to terminate provisions that are available only by election of the agency to be subject thereto, to provide different benefits or provisions, or to provide a combination of changes with respect to service performed after the effective date of the contract amendment, if the amendment provides that the contract amendments apply uniformly with respect to all members in specified classifications.

This bill would make that provision applicable to local safety officers and school safety members.

(4) That law also prohibits a contract or contract amendment from providing retirement benefits for some, but not all members of specified classifications.

This bill would make that provision applicable to school safety members.

(5) Existing law provides that a member's written application for retirement shall be deemed to have been submitted on the last day for which salary was payable. The effective date of a written application for retirement submitted to the board more than 9 months after the member's discontinuance of state service is determined as specified.

This bill would provide that the effective date shall be the first day of the month in which the member's application is received at an office of the board or by an employee of the system designated by the board.

(6) The Public Employees' Retirement Law establishes provisions to preserve the purchasing power of benefits under the law through a

system of adjustments in benefits based on changes in living costs. The law also enacts provisions to ensure the federal tax-exempt status of the system and to preserve the deferred treatment of federal income tax on public employer contributions to public employee pensions.

This bill would provide that the total amount payable to a member from the retirement fund in any calendar year shall not be greater than the applicable limit under federal tax provisions as of the annuity starting date, as specified. The bill would make related changes.

(7) That law provides that each retirement system that covers positions of policemen or firemen, or both, and other positions shall constitute a separate retirement system with respect to the positions of policemen or firemen, or both, covered by the system.

This bill would provide that if the federal system is extended to any firefighter's or peace officer's position, it shall be extended to them as a unit without any division of their separate retirement system. The bill would also provide that Medicare-only coverage may be extended to any firefighter's or peace officer's position with a division of their separate retirement system.

(8) That law provides that 30 days prior to, or 30 days following, retirement and during the open enrollment period, a state employee enrolled in a flexible benefit plan administered by the state shall be given the option to enroll in a health benefit plan, as specified.

This bill would instead provide that 30 days prior to, or 60 days following, retirement and during the open enrollment period, a state employee enrolled in a flexible benefit plan administered by the state shall be given the option to enroll in a health benefit plan, as specified.

(9) The Judges' Retirement Law establishes the Judges' Retirement System to provide retirement benefits for retired judges. Existing law also establishes the Judges' Retirement System II Law for judges elected or appointed on or after November 9, 1994. This law also specified the payment of accrued allowances that remain unpaid at the time of the death of a judge.

This bill would provide that if a person who is retired under the system is appointed or elected to serve as a judge, he or she shall reinstate from retirement and again become a member of the system, as specified. The bill would also revise the provision governing the payment of accrued, unpaid allowances to provide for their payment to either the estate of the deceased or the duly authorized representative of the estate when the court receives a court order appointing an executor, administrator, or personal representative. The bill would also authorize the payment

to be made, if the estate does not require probate, to a successor trustee, or to a beneficiary of the deceased named in a valid will, as applicable and specified.

(10) The bill would also make technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2610 of the Family Code is amended to  
2 read:

3 2610. (a) Except as provided in subdivision (b), the court shall  
4 make whatever orders are necessary or appropriate to ensure that  
5 each party receives the party's full community property share in  
6 any retirement plan, whether public or private, including all  
7 survivor and death benefits, including, but not limited to, any of  
8 the following:

9 (1) Order the disposition of any retirement benefits payable  
10 upon or after the death of either party in a manner consistent with  
11 Section 2550.

12 (2) Order a party to elect a survivor benefit annuity or other  
13 similar election for the benefit of the other party, as specified by  
14 the court, in any case in which a retirement plan provides for such  
15 an election, provided that no court shall order a retirement plan to  
16 provide increased benefits determined on the basis of actuarial  
17 value.

18 (3) Upon the agreement of the nonemployee spouse, order the  
19 division of accumulated community property contributions and  
20 service credit as provided in the following or similar enactments:

21 (A) ~~Article 1.2 (commencing with Section 21215) of Chapter~~  
22 ~~9 2 (commencing with Section 21290) of Chapter 13~~ of Part 3 of  
23 Division 5 of Title 2 of the Government Code.

24 (B) Chapter 12 (commencing with Section 22650) of Part 13  
25 of the Education Code.

26 (C) Article 8.4 (commencing with Section 31685) of Chapter  
27 3 of Part 3 of Division 4 of Title 3 of the Government Code.

28 (D) Article 2.5 (commencing with Section 75050) of Chapter  
29 11 of Title 8 of the Government Code.

30 (E) Chapter 15 (commencing with Section 27400) of Part 14 of  
31 the Education Code.

1 (4) Order a retirement plan to make payments directly to a  
2 nonmember party of his or her community property interest in  
3 retirement benefits.

4 (b) A court shall not make any order that requires a retirement  
5 plan to do either of the following:

6 (1) Make payments in any manner that will result in an increase  
7 in the amount of benefits provided by the plan.

8 (2) Make the payment of benefits to any party at any time before  
9 the member retires, except as provided in paragraph (3) of  
10 subdivision (a), unless the plan so provides.

11 (c) This section shall not be applied retroactively to payments  
12 made by a retirement plan to any person who retired or died prior  
13 to January 1, 1987, or to payments made to any person who retired  
14 or died prior to June 1, 1988, for plans subject to paragraph (3) of  
15 subdivision (a).

16 SEC. 2. Section 20037.6 of the Government Code is amended  
17 to read:

18 20037.6. (a) Notwithstanding Sections 20035 and 20037, final  
19 compensation for a person who *is employed by the state for the*  
20 *first time and* becomes a state member of the system on or after  
21 July 1, 2006, and is represented by State Bargaining Unit 2, means  
22 the highest average annual compensation earnable by the member  
23 during the consecutive 36-month period immediately preceding  
24 the effective date of his or her retirement, or the date of his or her  
25 last separation from state service if earlier, or during any other  
26 period of 36 consecutive months during his or her state membership  
27 that the member designates on the application for retirement.

28 (b) This section applies to service credit accrued while a member  
29 of State Bargaining Unit 2.

30 (c) This section does not apply to:

31 (1) Former state employees who return to state employment  
32 on or after July 1, 2006.

33 (2) State employees hired prior to July 1, 2006, who were subject  
34 to Section 20281.5 during the first 24 months of state employment.

35 (3) State employees hired prior to July 1, 2006, who become  
36 subject to representation by State Bargaining Unit 2 on or after  
37 July 1, 2006.

38 (4) State employees on an approved leave of absence who return  
39 to active employment on or after July 1, 2006.

SEC. 3. Section 20037.7 of the Government Code is amended to read:

20037.7. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who *is employed by the state for the first time and* becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 4. Section 20037.8 of the Government Code is amended to read:

20037.8. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who *is employed by the state for the first time and* becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 12 or 13, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or

1 her state membership that the member designates on the application  
2 for retirement.

3 (b) This section applies to service credit accrued while a member  
4 of State Bargaining Unit 12 or 13.

5 (c) This section does not apply to:

6 (1) Former state employees previously employed before January  
7 1, 2007, who return to state employment on or after January 1,  
8 2007.

9 (2) State employees hired prior to January 1, 2007, who were  
10 subject to Section 20281.5 during the first 24 months of state  
11 employment.

12 (3) State employees hired prior to January 1, 2007, who become  
13 subject to representation by State Bargaining Unit 12 or 13 on or  
14 after January 1, 2007.

15 (4) State employees on an approved leave of absence employed  
16 before January 1, 2007, who return to active employment on or  
17 after January 1, 2007.

18 SEC. 5. Section 20037.9 of the Government Code is amended  
19 to read:

20 20037.9. (a) Notwithstanding Sections 20035 and 20037, final  
21 compensation for a person who *is employed by the state for the*  
22 *first time and* becomes a state member of the system on or after  
23 January 1, 2007, and is represented by State Bargaining Unit 16  
24 or 19, means the highest average annual compensation earnable  
25 by the member during the consecutive 36-month period  
26 immediately preceding the effective date of his or her retirement,  
27 or the date of his or her last separation from state service if earlier,  
28 or during any other period of 36 consecutive months during his or  
29 her state membership that the member designates on the application  
30 for retirement.

31 (b) This section applies to service credit accrued while a member  
32 of State Bargaining Unit 16 or 19.

33 (c) This section does not apply to:

34 (1) Former state employees previously employed before January  
35 1, 2007, who return to state employment on or after January 1,  
36 2007.

37 (2) State employees hired prior to January 1, 2007, who were  
38 subject to Section 20281.5 during the first 24 months of state  
39 employment.

1 (3) State employees hired prior to January 1, 2007, who become  
2 subject to representation by State Bargaining Unit 16 or 19 on or  
3 after January 1, 2007.

4 (4) State employees on an approved leave of absence employed  
5 before January 1, 2007, who return to active employment on or  
6 after January 1, 2007.

7 SEC. 6. Section 20037.10 of the Government Code is amended  
8 to read:

9 20037.10. (a) Notwithstanding Sections 20035 and 20037,  
10 final compensation for a person who *is employed by the state for*  
11 *the first time and* becomes a state member of the system on or after  
12 January 1, 2007, and is represented by State Bargaining Unit 7,  
13 means the highest average annual compensation earnable by the  
14 member during the consecutive 36-month period immediately  
15 preceding the effective date of his or her retirement, or the date of  
16 his or her last separation from state service if earlier, or during any  
17 other period of 36 consecutive months during his or her state  
18 membership that the member designates on the application for  
19 retirement.

20 (b) This section applies to service credit accrued while a member  
21 of State Bargaining Unit 7.

22 (c) This section does not apply to:

23 (1) Service credit accrued while classified as a state peace  
24 officer/firefighter while a member of Bargaining Unit 7.

25 (2) Former state employees previously employed before January  
26 1, 2007, who return to state employment on or after January 1,  
27 2007.

28 (3) State employees hired prior to January 1, 2007, who were  
29 subject to Section 20281.5 during the first 24 months of state  
30 employment.

31 (4) State employees hired prior to January 1, 2007, who become  
32 subject to representation by State Bargaining Unit 7 on or after  
33 January 1, 2007.

34 (5) State employees on an approved leave of absence employed  
35 before January 1, 2007, who return to active employment on or  
36 after January 1, 2007.

37 SEC. 7. Section 20037.11 of the Government Code is amended  
38 to read:

39 20037.11. (a) Notwithstanding Sections 20035 and 20037,  
40 final compensation for a person who *is employed by the state for*



1 *the first time and* becomes a state member of the system on or after  
2 January 1, 2007, and is represented by State Bargaining Unit 10,  
3 means the highest average annual compensation earnable by the  
4 member during the consecutive 36-month period immediately  
5 preceding the effective date of his or her retirement, or the date of  
6 his or her last separation from state service if earlier, or during any  
7 other period of 36 consecutive months during his or her state  
8 membership that the member designates on the application for  
9 retirement.

10 (b) This section applies to service credit accrued while a member  
11 of State Bargaining Unit 10.

12 (c) This section does not apply to:

13 (1) Former state employees previously employed before January  
14 1, 2007, who return to state employment on or after January 1,  
15 2007.

16 (2) State employees hired prior to January 1, 2007, who were  
17 subject to Section 20281.5 during the first 24 months of state  
18 employment.

19 (3) State employees hired prior to January 1, 2007, who become  
20 subject to representation by State Bargaining Unit 10 on or after  
21 January 1, 2007.

22 (4) State employees on an approved leave of absence employed  
23 before January 1, 2007, who return to active employment on or  
24 after January 1, 2007.

25 SEC. 8. Section 20037.12 of the Government Code is amended  
26 to read:

27 20037.12. (a) Notwithstanding Sections 20035 and 20037,  
28 final compensation for a person who *is employed by the state for*  
29 *the first time and* becomes a state member of the system on or after  
30 January 1, 2007, and is represented by State Bargaining Unit 18,  
31 means the highest average annual compensation earnable by the  
32 member during the consecutive 36-month period immediately  
33 preceding the effective date of his or her retirement, or the date of  
34 his or her last separation from state service if earlier, or during any  
35 other period of 36 consecutive months during his or her state  
36 membership that the member designates on the application for  
37 retirement.

38 (b) This section applies to service credit accrued while a member  
39 of State Bargaining Unit 18.

40 (c) This section does not apply to:

1 (1) Former state employees previously employed before January  
2 1, 2007, who return to state employment on or after January 1,  
3 2007.

4 (2) State employees hired prior to January 1, 2007, who were  
5 subject to Section 20281.5 during the first 24 months of state  
6 employment.

7 (3) State employees hired prior to January 1, 2007, who become  
8 subject to representation by State Bargaining Unit 18 on or after  
9 January 1, 2007.

10 (4) State employees on an approved leave of absence employed  
11 before January 1, 2007, who return to active employment on or  
12 after January 1, 2007.

13 SEC. 9. Section 20305 of the Government Code is amended  
14 to read:

15 20305. (a) An employee serving on a *basis of* less than  
16 full-time ~~basis for six months~~ is excluded from this system unless:

17 (1) He or she is a member at the time he or she renders ~~less than~~  
18 ~~full-time~~ *that* service and is not otherwise excluded pursuant to  
19 this article or by a provision of a contract.

20 (2) *The appointment or employment contract fixes a term of*  
21 *full-time, continuous employment in excess of six months.*

22 ~~(2)~~

23 (3) His or her position requires regular, part-time service for  
24 one year or longer for at least an average of 20 hours a week, or  
25 requires service that is equivalent to at least an average of 20 hours  
26 a week, unless he or she elects membership pursuant to Section  
27 20325.

28 ~~(3)~~

29 (4) His or her employment is, in the opinion of the board, on a  
30 seasonal, limited-term, on-call, emergency, intermittent, substitute,  
31 or other irregular basis, and is compensated and meets one of the  
32 following conditions:

33 (A) The appointment or employment contract ~~fixes~~ *does not fix*  
34 ~~a term of full-time, continuous employment in excess of six months~~  
35 ~~or, if a term is not fixed, but~~ full-time employment continues for  
36 longer than six months, in which case membership shall be  
37 effective not later than the first day of the first pay period of the  
38 seventh month of employment.

39 (B) The person ~~works more than~~ *completes* 125 days, if  
40 employed on a per diem basis or, if employed on other than a per

1 diem basis, *completes* 1,000 hours within the fiscal year, in which  
2 case, membership shall be effective not later than the first day of  
3 the first pay period of the month following the month in which  
4 125 days or 1,000 hours of service were completed. For purposes  
5 of this subdivision, “day” means each eight-hour period of  
6 employment worked by an employee paid on a per diem basis so  
7 that membership is effective after he or she has completed 1,000  
8 hours of compensated service in a fiscal year.

9 (C) The person is employed by the Department of Forestry and  
10 Fire Protection in one of the positions that provide state safety  
11 membership pursuant to Section 20400 or state peace  
12 officer/firefighter membership pursuant to Section 20392.

13 ~~(4)~~

14 (5) He or she is a temporary faculty member of the California  
15 State University and meets one of the following conditions:

16 (A) He or she works two consecutive semesters or three  
17 consecutive quarters at half-time or more, and is not otherwise  
18 excluded pursuant to this article, in which case, membership shall  
19 be effective with the start of the next consecutive semester or  
20 quarter if the appointment requires service of half-time or more.

21 (B) He or she works two consecutive semesters or three  
22 consecutive quarters at a minimum teaching load of six weighted  
23 units, and is not otherwise excluded pursuant to this article, in  
24 which case membership shall be effective at the start of the next  
25 consecutive semester or quarter, but not earlier than July 1, 2004,  
26 if the appointment requires service of six weighted units or more.  
27 This subparagraph does not apply to faculty members unless  
28 provided for in a memorandum of understanding agreed upon, on  
29 or after January 1, 2003, pursuant to Chapter 12 (commencing  
30 with Section 3560) of Division 4 of Title 1, or authorized by the  
31 Trustees of the California State University for employees excluded  
32 from collective bargaining.

33 ~~(5)~~

34 (6) He or she is a member of the Board of Prison Terms, the  
35 State Personnel Board, or the State Air Resources Board and elects  
36 to become a member pursuant to Section 20320.

37 ~~(6)~~

38 (7) He or she is participating in partial service retirement,  
39 pursuant to Article 1.7 (commencing with Section 19996.30) of  
40 Chapter 7 of Part 2.6.

1     ~~(7)~~

2     (8) He or she is included by specific provision of the board  
3 relating to the exclusion of less than full-time employees.

4     (b) This section shall supersede any contract provision excluding  
5 persons in any temporary or seasonal employment basis and shall  
6 apply only to persons entering employment on and after January  
7 1, 1975. Except as provided in Section 20502, no contract or  
8 contract amendment entered into after January 1, 1981, shall  
9 contain any provision excluding persons on an irregular  
10 employment basis.

11     SEC. 10. Section 20475 of the Government Code is amended  
12 to read:

13     20475. Notwithstanding Section 20474, a contracting agency  
14 may amend its contract or previous amendments to its contract,  
15 without election among its employees, to reduce benefits, to  
16 terminate provisions that are available only by election of the  
17 agency to become subject thereto, to provide different benefits or  
18 provisions or to provide a combination of those changes with  
19 respect to service performed after the effective date of the contract  
20 amendment made pursuant to this section, if the contracting agency  
21 has fully discharged all of the obligations imposed by Chapter 10  
22 (commencing with Section 3500) of Division 4 of Title 1 with  
23 respect to the contract amendments, and if the amendment provides  
24 that:

25     (a) The contract amendments apply uniformly with respect to  
26 all members within each of the following classifications: local  
27 miscellaneous members, local police officers, local firefighters,  
28 county peace officers, local sheriffs, *local safety officers*, *school*  
29 *safety members*, or all local safety members other than local police  
30 officers, local firefighters, county peace officers, ~~or~~ local sheriffs,  
31 *local safety officers*, or *school safety members*.

32     (b) A member shall be subject to the contract as amended only  
33 if, after the effective date of the contract amendment, the member  
34 either (1) receives service credit for the first time within a  
35 classification, or (2) the member returns to service within a  
36 classification following termination of membership as provided  
37 for in subdivision (b) of Section 20340 unless the member has  
38 redeposited or elects prior to 90 days after returning to service to  
39 redeposit contributions pursuant to Section 20750, in which case  
40 the member shall not be subject to the contract amendment.

1 Amendments to the contract and amendments of previous  
2 amendments to the contract may be effected pursuant to this section  
3 only once during any three-year period with respect to each of the  
4 classifications.

5 SEC. 11. Section 20479 of the Government Code is amended  
6 to read:

7 20479. (a) Notwithstanding any other provision of law,  
8 including, but not limited to, Chapter 10 (commencing with Section  
9 3500) of Division 4 of Title 1, no contract or contract amendment  
10 shall be made to provide retirement benefits for some, but not all  
11 members of the following membership classifications: local  
12 miscellaneous members, local police officers, local firefighters,  
13 county peace officers, local sheriffs, ~~or~~ local safety officers, *or*  
14 *school safety members*.

15 ~~No~~

16 (b) No contract or contract amendments shall provide different  
17 retirement benefits for a subgroup, including, but not limited to,  
18 bargaining units or unrepresented groups, within those membership  
19 classifications.

20 ~~This~~

21 (c) *This* section does not preclude changing membership  
22 classification from one membership classification to another  
23 membership classification or exclusion of groups of members by  
24 contract.

25 ~~For~~

26 (d) *For* purposes of this section, “benefit” shall not be limited  
27 to the benefits set forth in Section 20020.

28 SEC. 12. Section 20967 of the Government Code is amended  
29 to read:

30 20967. For the purpose of calculating retirement benefits based  
31 on part-time service, except under Section 21381, compensation  
32 earnable shall be taken as the compensation that would have been  
33 earnable if the employment had been on a full-time basis and the  
34 member had worked full time, *and shall conform to the definitions*  
35 *given in Section 20636.1 for school members and Section 20636*  
36 *for all other employees*.

37 SEC. 13. Section 21252 of the Government Code is amended  
38 to read:

39 21252. (a) A member’s written application for retirement, if  
40 submitted to the board within nine months after the date the

1 member discontinued his or her state service, and, in the case of  
2 retirement for disability, if the member was physically or mentally  
3 incapacitated to perform his or her duties from the date the member  
4 discontinued state service to the time the written application for  
5 retirement was submitted to the board, shall be deemed to have  
6 been submitted on the last day for which salary was payable. The  
7 effective date of a written application for retirement submitted to  
8 the board more than nine months after the member's discontinuance  
9 of state service ~~shall be determined in accordance with Section~~  
10 ~~20160~~ *shall be the first day of the month in which the member's*  
11 *application is received at an office of the board or by an employee*  
12 *of this system designated by the board.*

13 (b) An application for retirement may only be submitted by or  
14 for a member who is living on the date the application is actually  
15 received by the system. If the member has been deemed  
16 incompetent to act on his or her own behalf continuously from the  
17 last day for which salary was payable, the effective date of  
18 retirement may not be earlier than one year prior to the month in  
19 which an application submitted by the guardian of the member's  
20 estate is received by the system.

21 (c) Notwithstanding any other provision of law, a member who  
22 separates from a retirement system that has established reciprocity  
23 with this system with the intention of retiring concurrently under  
24 both systems and who submits his or her application for retirement  
25 for service to the board within nine months after that separation,  
26 may have his or her application received and acted upon by this  
27 system as if the application were submitted pursuant to this section.

28 SEC. 14. Section 21310.5 is added to the Government Code,  
29 to read:

30 21310.5. Notwithstanding provisions in this article regarding  
31 adjustments to a member's retirement allowance, in no event shall  
32 the total amount payable to the member from the retirement fund  
33 in any calendar year be greater than the applicable limit under  
34 Section 415(b) of the Internal Revenue Code as of the annuity  
35 starting date, as increased in subsequent years pursuant to Section  
36 415(d) of the Internal Revenue Code and applicable regulations,  
37 as amended. To the extent that a member's retirement allowance  
38 is limited under this section, Part 3.4 (commencing with Section  
39 21750) shall apply.

SEC. 15. Section 21753 of the Government Code is amended to read:

21753. Notwithstanding any other provision of law *and except as provided in Section 21310.5*, the retirement allowance of a member shall be increased to reflect cost-of-living adjustments to the limits contained in Section 415 of Title 26 of the United States Code as provided in Section 415(d) of that code, provided that the member's allowance determined without regard to Section 415 equals or exceeds the applicable limit as indexed. Nothing in this section is intended to, nor shall be construed to, entitle a retired member to a cost-of-living adjustment to his or her allowance in excess of that provided pursuant to Part 3 (commencing with Section 20000).

SEC. 16. Section 22126 of the Government Code is amended to read:

22126. ~~Notwithstanding~~ (a) *Notwithstanding* Section 22009.1, each retirement system ~~which~~ *that* covers positions of ~~police~~men *peace officer* or ~~fire~~men *firefighter*, or both, and other positions shall constitute a separate retirement system with respect to the positions of ~~police~~men *peace officer* or ~~fire~~men *firefighter*, or both, covered by the system. ~~Police~~men *Peace officers* and ~~fire~~men *firefighters* shall vote separately from the other members of the system.

If

(b) *If* the federal system is extended to any ~~fireman's~~ *firefighter's* or ~~police~~man's *peace officer's* position it shall be extended to them as a unit without any division of their separate retirement system.

(c) *Medicare-only coverage may be extended to any firefighter's or peace officer's position with a division of their separate retirement system.*

SEC. 17. Section 22839 of the Government Code is amended to read:

22839. Thirty days prior to, or ~~30~~ 60 days following, retirement and during the open enrollment period, a state employee enrolled in a flexible benefit plan administered by the state shall be given the option to enroll in a health benefit plan approved or maintained by the board and receive the applicable employer contribution, if the state employee would otherwise qualify as an annuitant.

SEC. 18. Section 22960.15 of the Government Code is amended to read:

22960.15. “Eligible employee” means any person employed by the state, whose compensation is paid out of funds directly controlled by the state, and who is subject to coverage by the plan pursuant to the provisions of Section ~~23000~~ 22960.

SEC. 19. Section 75006 of the Government Code is amended to read:

75006. (a) Any allowance payable to a retired judge or to a surviving spouse or to an eligible surviving child which has accrued and remained unpaid at the time of the judge's or the surviving spouse's or surviving child's death, or any unclaimed warrant issued prior to the date of death and returned to the system, shall be paid ~~to~~ pursuant to the following order:

(a)

(1) The survivor entitled to an allowance payable by this system.

(b)

(2) The beneficiary designated by the surviving spouse, eligible surviving child, or retired judge if there is no eligible survivor.

(c)

(3) The estate of the deceased, if there is no one entitled ~~under subdivision (a) or (b)~~ to payment under paragraph (1) or (2). The payment to the estate shall be paid to either the estate of the deceased or the duly authorized representative or representatives of the estate when this system receives a court order appointing an executor, administrator, or personal representative.

(4) If the estate does not require probate and the deceased has a trust, the payment may, in the judgment of the board, be paid to the successor trustee named in the trust.

(5) If the estate does not require probate and the deceased does not have a trust, the payment may, in the judgment of the board, be paid to the beneficiary or beneficiaries of the deceased named in a valid will.

(b) If there is no qualifying beneficiary pursuant to paragraphs (1) to (5), inclusive, of subdivision (a), the payment shall be paid to the surviving next of kin of the deceased pursuant to the order of distribution specified in Section 21493.

SEC. 20. Section 75028.5 of the Government Code is amended to read:

75028.5. After a judge has withdrawn his or her accumulated contributions upon discontinuance of his or her service, that service shall not count in the event he or she later becomes a judge again,



1 until he or she pays into the Judges' Retirement Fund the amount  
2 of accumulated contributions withdrawn by him or her, plus interest  
3 thereon at the rate of interest then being required to be paid by  
4 members of the Public Employees' Retirement System under  
5 Section ~~20654~~ 20750 from the date of withdrawal to the date of  
6 his or her payment.

7 SEC. 21. Section 75080.5 is added to the Government Code,  
8 to read:

9 75080.5. (a) Except as described in subdivision (b), if a person  
10 who is retired under this system is appointed or elected to serve  
11 as a judge, he or she shall reinstate from retirement and again  
12 become a member of the Judges' Retirement System pursuant to  
13 this chapter.

14 (b) This section shall not apply to a retired judge who is assigned  
15 to serve in a court pursuant to Section 68543.5, and he or she shall  
16 not earn service credit or be entitled to retirement benefits under  
17 this part for that assignment.

18 SEC. 22. Section 75507 of the Government Code is amended  
19 to read:

20 75507. (a) Any allowance payable to a retired judge or to a  
21 surviving spouse or to an eligible surviving child that has accrued  
22 and remained unpaid at the time of the death of the judge or the  
23 death of a surviving spouse or surviving child, or any unclaimed  
24 warrant issued prior to the date of death and returned to the board,  
25 shall be paid ~~to one of the following~~ pursuant to the following  
26 order:

27 ~~(a)~~

28 (1) The survivor entitled to an allowance payable by the board.

29 ~~(b)~~

30 (2) The beneficiary designated by the surviving spouse, eligible  
31 surviving child, or retired judge if there is no eligible survivor.

32 ~~(c)~~

33 (3) The estate of the deceased, if there is no one entitled to  
34 payment under ~~subdivision (a) or (b)~~ paragraph (1) or (2). *The*  
35 *payment to the estate shall be paid to either the estate of the*  
36 *deceased or the duly authorized representative or representatives*  
37 *of the estate when this system receives a court order appointing*  
38 *an executor, administrator, or personal representative.*

1     (4) *If the estate does not require probate and the deceased has*  
2     *a trust, the payment may, in the judgment of the board, be paid to*  
3     *the successor trustee named in the trust.*

4     (5) *If the estate does not require probate and the deceased does*  
5     *not have a trust, the payment may, in the judgment of the board,*  
6     *be paid to the beneficiary or beneficiaries of the deceased named*  
7     *in a valid will.*

8     (b) *If there is no qualifying beneficiary pursuant to paragraphs*  
9     *(1) to (5), inclusive, of subdivision (a), the payment shall be paid*  
10    *to the surviving next of kin of the deceased pursuant to the order*  
11    *of distribution specified in Section 21493.*

12    SEC. 23. Section 75552 of the Government Code is amended  
13    to read:

14    75552. (a) After payment of a portion of the member's  
15    contributions to a nonmember pursuant to subdivision (b) of  
16    Section 75551, the member may redeposit the full amount in the  
17    fund at any time before he or she retires or otherwise leaves judicial  
18    office. The redeposit shall include interest at the rate of interest  
19    then being required to be paid by members of the Public  
20    Employees' Retirement System under Section-20654 20750 from  
21    the date of payment to the date of redeposit. A partial redeposit  
22    shall not be accepted.

23    (b) After payment of a portion of the member's monetary credits  
24    to a nonmember pursuant to subdivision (c) of Section 75551, the  
25    member may redeposit the full amount in the fund at any time  
26    before he or she retires or otherwise leaves judicial office. The  
27    redeposit shall include interest at the greater of: (1) the rate of  
28    interest then being required to be paid by members of the Public  
29    Employees' Retirement System under Section-20654 20750 from  
30    the date of payment to the date of redeposit; or (2) the compounded  
31    amounts that would have been credited to the member's monetary  
32    account pursuant to subdivision (b) of Section 75520 had the  
33    payment not been made to the nonmember. A partial redeposit  
34    shall not be accepted.

35    SEC. 24. Section 75580.5 is added to the Government Code,  
36    to read:

37    75580.5. (a) Except as described in subdivision (b), if a person  
38    who is retired under this system, for service or for disability, is  
39    appointed or elected to serve as a judge, he or she shall reinstate

1 from retirement and again become a member of this system  
2 pursuant to this chapter.  
3 (b) This section shall not apply to a retired judge who is assigned  
4 to serve in a court pursuant to Section 68543.5, and he or she shall  
5 not earn service credit or be entitled to retirement benefits under  
6 this part for that assignment.

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